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CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT

## Notification

The 31st July, 2024

**No. 13/1/9641-HII(2)-2024/12047.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **13/2019** dated **02.05.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

K.MURLIDHARAN, MANAGER (ADMN.)(RETD.), R/O HOUSE NO.5684, SECTOR 38(W), CHANDIGARH SINCE DECEASED THROUGH HIS LEGAL REPRESENTATIVES :-

- i) SHYAMA MURALI (WIDOW)
- ii) PRATEEK MURALI (SON)
- iii) PRANAB MURALI (SON)

ALL RESIDENTS OF H.NO.5684, SECTOR 38 (WEST), CHANDIGARH. (Workman)

AND

M/S DAINIK BHASKAR CORPORATION LIMITED, PLOT NO.11-12, SECTOR 25, CHANDIGARH THROUGH ITS ASSISTANT GENERAL MANAGER (HR & ADMN.) (Managements)

## AWARD

1. Vide Endorsement No.13/1/9641-HII(2)-2019/15615 Dated 19.09.2019 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the claim application filed by K. Murlidharan (*here-in-after referred "workman"*) to M/s Dainik Bhaskar Corporation Limited (*here-in-after referred "management"*) under Section 17(1) of the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955 (*here-in-after in short referred "Act 1955"*) in following words :-

*"Whether the arrears of revision of pay to Shri K. Murlidharan, Manager (Admn.) (Retd.), Resident of House No. 5684, Sector 38 (W), Chandigarh (Applicant/Claimant) AND M/s Dainik Bhaskar Corporation Limited, Plot No. 11-12, Sector 25, Chandigarh through its*

(1925)

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*Assistant General Manager (HR & Admn.) (Management) according to the recommendations of the Majithia Wage Board and also as per the direction of the Hon'ble Supreme Court of India under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No.128/2015 and 129/2015 AND WP (Civil) 246/2011 dated 07.02.2014; if so, to what effect and to what relief he is entitled to, if any ?"*

2. Upon notice, the workman appeared in person and thereafter through his Representative Shri Jatinderjit Singh. Briefly stated the averments of claim statement are that a request/ Demand Notice was made to the Appropriate Government i.e. Labour Commissioner, U.T., Chandigarh, under Section 17 of the Act 1955 for fixation of pay in terms of the recommendations of the Majithia Wage Board Award notified by the Government of India w.e.f. 11.11.2011 and payment of arrears. After the failure of the reconciliation proceedings, the Secretary, Labour Department, U.T., Chandigarh, vide order dated 10.09.2019, a Notification was issued on 19.09.2019, by making the reference, reproduced in foregoing paragraph, for adjudication in terms of Section 17(2) of the Act 1955. In view of that the above, a notice was issued by this Tribunal for appearance on 03.12.2019 under Section 10(1)(c) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*), but the same was amended to have been issued under Section 17 of the 1955 Act with pre-poning the date for today, i.e. 01.11.2019.

3. It is further stated that the workman was appointed as Executive Assistant vide order dated December 1, 2009 and joined as such on 01.12.2009 at Chandigarh with a consolidated CTC of ₹ 2,40,000/- per annum. Keeping in view performance of the workman, he was promoted as Manager (Administration) w.e.f. January 1, 2011 and his CTC was revised to ₹ 25,000/- per month with other terms and conditions remaining the same. On the basis of appraisal for each year, the workman has been performing his duties as Manager (Admn.) to the entire satisfaction of the management. On account of illness and for having treatment for the Kidney disease and being on dialysis, the workman tendered his resignation vide letter dated 1st March, 2019, treating the same as one month's notice. Resignation of the workman was accepted on the same day and the workman was advised to give his charge to Shri Sachin Verma and submit his 'No Dues Certificate' from Shri Naveen Sharma, Unit HR, Chandigarh. However, the workman continued working and finally, he was paid ₹ 1,10,341/- vide Cheque dated 22.04.2019, which was calculated on the wages fixed prior to the implementation of Majithia Wage Board, i.e. Bachawat/Manisana Wage Boards. While accepting the cheque, remarks were given that the arrears are not based on the recommendations of the Majithia Wage Board, to which the workman was entitled from 11.11.2011 till the date of his resignation i.e. 01.03.2019. After receiving the payment in the un-revised scale of wages, a notice was sent to the management on 06.05.2019 for implementation of the recommendations of the Majithia Wage Board and release of arrears, but nothing has been heard so far. In quite number of similar cases of the D.B. Corporation Ltd., the matter has been referred to the Labour Court/ Industrial Tribunal, U.T., Chandigarh on 28.06.2018 for adjudication of the matter under Section 17(2) of the Act 1955. The arrears of the workman from the period 11.11.2011 to 01.11.2018 have been worked out to be ₹ 49,69,786/- as per the calculations done by DGR & Associates, Chartered Accountants, annexed with the claim statement. Prayer is made that management be directed to fix the wages under the recommendations of the Majithia Wage Board and release the arrears.

4. Management contested the claim statement by filing written statement wherein preliminary objections are raised on the ground that the claimant-workman filed the fresh claim petition claiming the arrears of wages for the period from 11.11.2011 to 01.11.2018 as per the recommendation of the Majithia Wage Board by putting the wrong facts as well as by leveling the false allegations and by presenting the fabricated calculation sheet before this Tribunal. The claimant-workman does not fall under the definition of 'workman' as per Section 2(s) (ii to iv) of the ID Act, the claimant-workman had also failed to claim himself as 'workman' as per the provisions of ID Act. As per the nature as well as status of post, the claimant-workman does not fall within the definition of 'workman' as per Section 2 of the ID Act. The claim petition (*here-in-after 'claim statement'*)

is also liable to be dismissed on account of mis-joinder of the necessary parties, as the alleged service rendered by the claimant-workman with the answering respondent (*here-in-after 'management'*) i.e. Chief Manager, H.R. (who has not impleaded as party in the present claim petition) and authorities of head office have been impleaded by name. The submission of resignation is admitted by the claimant-workman himself and it is well settled proposition of law that admission is the best evidence. The claimant-workman had concealed the material fact that at the time of leaving the answering management after putting the resignation, had accepted all the service benefits and also has received full and final amount from the answering management and nothing remained pending / due and as such the present claimant-workman has no right to contest the present claim statement being not maintainable. The procedure under the scheme of the Act 1955 aggrieved employee seeking to recover any amount due under the Act is required to first move an application before the State Government. As per Rule 36 of the Act, such an application is required to be made in prescribed Form 'C' addressed to the Secretary to the State Government, alongwith the details of the amount claimed, preceded by a fifteen days prior notice regarding payment to the concerned newspaper establishment. In the case in hand, no such application alongwith the details of the amount claimed; much less in the prescribed format was made to the Secretary of the State Government. Needless to mention no fifteen days prior notice was also issued to the management by the claimant-workman as required under Rule 36 of the Act. Thus, in the absence of fulfilling the conditions precedent for initiating action under Section 17 legally no proceeding could have been initiated at the instance of the claimant-workman against the management. Hence, the proceeding in question is void ab-initio. The claimant-workman had annexed the calculation sheet showing the turnover of the management only to get the under a benefit from the answering management, which is a dispute in question of fact and cannot be decided in summary proceedings, before this Tribunal and as such the present claim petition is liable to be dismissed as a dispute in question of fact can only be adjudicated upon by the concerned Civil Court. Hence, the present claim statement is liable to be dismissed. The basis of computation of the amount is claimed by the claimant-workman has not been indicated by him and revelation of the identity of the persons who has computed the said amount has not been revealed by the claimant-workman. Hence, the same is frivolous and baseless. The answering management do have the spirit to honor judgment delivered by the Hon'ble Supreme Court of India but in the present claim statement, the claimant-workman is not entitled for any benefit in compliance of the judgments delivered by the Hon'ble Supreme Court of India. The claim made in the instant case by the claimant-workman is not maintainable under the provisions of Section 17 of the Act 1955 as no amount is due and further the amount as claimed by the claimant-workman is based on non-existing right.

5. On merits, it is pleaded that it is matter of record that a Demand Notice was made to the Labour Commissioner, U.T., Chandigarh, under Section 17 of the Act 1955 for fixation of pay in terms of the recommendations of the Majithia Wage Board Award notified by the Government of India w.e.f. 11.11.2011 and payment of arrears and after the failure of the reconciliation proceedings, the Secretary, Labour Department, U.T., Chandigarh, vide order dated 10.09.2019, a Notification was issued on 19.09.2019, by making the reference for adjudication in terms of Section 17(2) of the Act 1955 and a notice was issued by this Tribunal for appearance on 03.12.2019 under Section 10(1)(c) of the ID Act. It is also matter of record that the workman was appointed as Executive Assistant vide order dated December 1, 2009 and joined as such on 01.12.2009 at Chandigarh with a consolidated CTC of ₹ 2,40,000/- per annum and he was promoted as Manager (Administration) w.e.f. January 1, 2011 and his CTC was revised to ₹ 25,000/- per month with other terms and conditions remaining the same. Further it is stated that the workman tendered his resignation vide letter dated 01.03.2019 on medical grounds which was accepted by the answering management and all the legitimate dues of the workman were duly paid to him by the answering management and the same were also duly received and acknowledged by the workman without any protest. The workman is not entitled for the wages as per the Majithia Wage Board from 11.11.2011 to 01.03.2019. Rest of the averments of claim statement are denied as wrong and prayer is made that the claim statement may be dismissed with exemplary costs, in the interest of justice.

6. The workman filed rejoinder, wherein the contents of written statement except the admitted facts of the claim statement, are denied as wrong and the averments of the statement of claim are reiterated.



7. From the pleadings of the parties, following issues were framed vide order dated 07.01.2022 :-

1. Whether the arrears of revision of pay to Shri K. Murlidharan were to be paid by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether Shri K. Murlidharan does not fall under the definition of 'workman' as defined under Section 2(s) of the ID Act ? OPM
3. Whether the claim of Shri K. Murlidharan is bad on the ground of mis-joinder of necessary party ? OPM
4. Whether the claim of Shri K. Murlidharan is not maintainable under the provisions of Section 17 of the Working Journalists & Other Newspaper Employees (Condition of Services) and Miscellaneous Provisions Act, 1955 ? OPM
5. Relief.

8. In evidence, Legal Representative of deceased workman, Parteek, examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'A1' to Exhibit 'A2'.

**Exhibit 'A1'** is copy of notification vide S.O. No.2532(E) dated 11.11.2011 issued by Govt. of India, Ministry of Labour & Employment regarding the recommendations of the Majithia Wage Board which were accepted by the Government of India on 25th October, 2011.

**Exhibit 'A2'** is copy of the details of calculation accompanied with calculation sheet of estimated gross salary as per Majithia Wage Board relating to workman K. Muralidharan.

9. During cross-examination the management put document Exhibit 'M1' and Exhibit 'M2' to AW1.

**Exhibit 'M1'** is copy of payment advice bearing reference No.DBGGT/2018-19/May/52 dated 27.05.2019 pertaining to workman K. Muralidharan.

**Exhibit 'M2'** is copy of demand draft bearing No.014419 dated 27.05.2019 for ₹ 54,249/-; drawn on IDBI Bank, Bhopal; in favour of K. Muralidharan.

10. On 19.01.2023, Shri Parteek Murli, Legal Representative of the deceased workman closed his evidence in affirmative.

11. On the other hand, management examined MW1 Avdhesh Gaur - Assistant Manager, HR Admin, O/o Dainik Bhaskar, Chandigarh, who tendered his affidavit Exhibit 'MW1/A' along with copies of documents Exhibit 'M1' to Exhibit 'M8'.

**Exhibit 'M1'** is identity card of Avdhesh Gaur.

**Exhibit 'M2'** is authority letter dated 20.02.2023 issued by DB Corp. Ltd. in favour of Avdhesh Gaur.

**Exhibit 'M3'** is resignation with acceptance dated 01.03.2019.

**Exhibit 'M4'** is full & final slip for the month of April, 2019.

**Exhibit 'M5'** is payment voucher.

**Exhibit 'M6'** is payment advice dated 27.05.2019.

**Exhibit 'M7'** is copy of demand draft No.014419 and 27.05.2019 issued in favour of K. Murlidharan for the sum of ₹ 54,249/-

**Exhibit 'M8'** is declaration dated 15.11.2011.

12. It is pertinent to mention here that Exhibit 'M1' & Exhibit 'M2' are numbered twice i.e. Exhibit 'M1' is copy of payment advice bearing reference No.DBGGT/2018-19/May/52 dated 27.05.2019 pertaining to workman K. Muralidharan and Exhibit 'M2' is copy of demand draft bearing No.014419 dated 27.05.2019 for ₹ 54,249/-; drawn on IDBI Bank, Bhopal; in favour of K. Muralidharan put in cross-examination to the witness AW1 and Exhibit 'M1' is identity card of Avdhesh Gaur and Exhibit 'M2' is authority letter dated 20.02.2023 issued by DB Corp. Ltd. in favour of Avdhesh Gaur tendered by MW1 in his examination-in-chief. In order to avoid any ambiguity, identity card of Avdhesh Gaur and authority letter dated 20.02.2023 are renumbered and hereafter referred as Exhibit 'M1/A' and Exhibit 'M2/A' respectively.

13. On 28.02.2024 Learned Representative for management closed oral evidence. On 02.05.2024 Learned Representative for the management closed documentary evidence.

14. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below :-

**Issues No. 1 & 2 :**

15. Both these issues are taken up together being interconnected and in order to avoid repetition of discussion.

16. Onus to prove issue No.1 is on the workman and onus to prove issue No.2 is on the management.

17. In order to prove the entitlement of the workman to the arrears of pay on the basis of Majithia Wage Board recommendations notified on 11.11.2011 by the Government of India, Legal Representative of deceased workman examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity. AW1 supported his oral version with documents Exhibit 'A1' and Exhibit 'A2'.

18. On the other hand, to controvert the evidence led by the workman, the management examined MW1 Avdhesh Gaur - Assistant Manager (HR & Admin) of DB Corp. Ltd., who vide his affidavit Exhibit 'MW1/A' deposed that he is working as Assistant Manager - HR & Admin (CPH2) with the respondents and has been authorised by the respondent to depose on its behalf in the above said case before this Court. He is well conversant with the facts of the present case. He further deposed that submission of resignation is well settled proposition of law and that admission is the best evidence. The claimant-workman had concealed the material fact that at the time of leaving the answering respondent-management, after putting the resignation dated 01.03.2018, had accepted all the service benefits and also has received full & final amount from the answering respondent-management and nothing remained pending / due and as such the present claimant-workman has no right to contest the present claim statement being not maintainable. He further deposed that DB Corp. Ltd. is a group of business including textile, MY FM, Digital Media, Real estate, power, denim. As per Majithia Wage Board recommendation only the business of newspaper establishment i.e. circulation and advertisement of newspaper shall be counted and all the units have independent existence and the accounts of each unit are being prepared by that unit. He further deposed that the respondent-management has fully complied with the provision of Majithia Wage Board issued by the Central Government under notification dated 11.11/2011. The claimant-workman had already received the wages as per para 20(j) of the Majithia Wage Board recommendations. The claimant-workman has chosen / opted to retain his existing wages and existing emoluments as per para 20(j) of the Majithia Wage Board at his own voluntarily by signing a declaration dated 15.11.2011 and after signing the declaration, now nothing is payable to the applicant as she has already received wages according to option opted by her of para 20(j) and opted to retain her current salary and emoluments at that time. All the employees working have given their signatures on option letter as per their will and submitted it to the management. The claimant-workman is not entitled for the benefit of the compliance of judgment passed by the Hon'ble Supreme Court of India as prior to passing of judgment by the Hon'ble Apex Court. MW1 supported his oral version with documents Exhibit 'M1' to Exhibit 'M8'.

19. It is undeniable fact of parties that the services of the workman were governed under the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955. From the oral as well documentary evidence led by the parties and from the pleadings, it emerges that admittedly the workman was appointed as Executive Assistant vide order dated 01.12.2009 and joined on 01.12.2009 at Chandigarh. It is also admitted fact of the parties that the workman was promoted as Manager (Administration) w.e.f. January 1, 2011 and the workman tendered his resignation vide letter dated 01.03.2019 which was accepted by the management. Learned Representative for the workman argued that though the workman was promoted as Manager but he kept on performing his duties as Executive only without there being any change in the nature of work or her duties. The workman was not having any supervisory, administrative or managerial powers. On the other hand, Learned Representative for the management argued that the claimant-workman himself presented his statement of promotions which were supervisory in nature. Since, the claimant-workman was performing the duties under the supervisory capacity as such the workman ceased to be a 'workman' as per the definition under Section 2(s) of the ID Act. To support his arguments Learned Representative for the management referred cross-examination of AW1 wherein he admitted that it is correct that Mr. Sachin was working as sub-ordinate to his father under his supervision. To my opinion, the argument advanced by Learned Representative for the management that claimant-workman does not fall within the definition of 'workman' as defined in Section 2(s) of the ID Act is devoid of merit. The fact that only one worker was subordinate to the workman is not sufficient to conclude that the workman was exercising any power to initiate disciplinary proceedings against his subordinate. As per the judgment of Hon'ble Apex Court titled as *Anand Regional Coop. Oil Seedsgrowers' Union Limited Versus Shaileshkumar Harshadbhai Shah, reported in 2006 SCC (L&S) 1486*, referred by Learned Representative for the workman, which is applicable to the facts of the present case to an extent, mere designation of the post held by an employee is not the only determining factor as to whether he is a 'workman' as defined under Section 2(s) of the ID Act or not. Main and dominant nature of duties performed by the employee would be the determining factor. What are the prime duties he performs is to be seen. As already discussed above, workman has alleged that he kept on performing his duties as Executive only and was not having any supervisory, administrative or managerial powers. On the other hand, the management did not elaborate as to what kind of administrative, managerial or supervisory duties were performed by the workman. It is neither pleaded nor proved into evidence that the claimant-workman had the power to make temporary appointments, grant leave and initiate disciplinary proceedings etc. Thus, it is concluded that the workman was not performing any administrative, managerial or supervisory duties and falls within the definition of 'workman' as defined under Section 2(s) of the ID Act.

20. It is argued that by Learned Representative for the management that K. Muralidharan was in the employment of the DB Corp. Ltd. from 01.12.2009 (joined on 02.12.2009) till he tendered his resignation w.e.f. 01.03.2019. After the notification of Majithia Wage Board recommendations workman exercised his option under para 20(j) of the Majithia Wage Board by signing a declaration dated 15.11.2011 and chosen to retain the existing pay scale and existing emoluments. Moreover, the workman has received all his service benefits without any protest. At the time of resignation from job, the workman did not reserve his right of claiming benefits of Majithia Wage Board. The management has paid all the existing dues to the workman at the time of his resignation. To support his arguments Learned Representative for the management referred cross-examination of AW1 Parteek Murali S/o Late K. Muralidharan wherein he has admitted as correct that his late father has resigned from service of the management w.e.f. 01.03.2019. AW1 further admitted as correct that his father has received all his service dues from the management at the time of resigning from job w.e.f. 01.03.2019. AW1 admitted as correct that the payment advice dated 27.05.2019 bears the signatures of his father and copy of the same is Exhibit 'M1'. AW1 admitted as correct that his father has received a sum of ₹ 54,249/- towards gratuity vide cheque No.014419 dated 27.05.2019 drawn on IDBI Bank and copy of same is Exhibit 'M2'. AW1 stated that Exhibit 'M1' and Exhibit 'M2' does not bear any endorsement of his father that he is receiving payment under protest. AW1 stated that after receipt of payment of gratuity vide Exhibit 'M1' and Exhibit 'M2' his father has filed claim application before the Controlling Authority for grant of gratuity.



Learned Representative for the management by referring to above mentioned version of AW1 laid much stress upon the fact that admittedly K. Muralidharan at the time of receiving the amount of gratuity neither received the same under protest nor reserved any right to claim the benefits of Majithia Wage Board. Learned Representative for the management also referred the volunteer statement of AW1 wherein he has stated that his father has reserved his rights at the time of resignation from the job. During cross-examination AW1 was shown the judicial file to provide the document in the judicial file wherein his father has reserved his right to claim the benefits of Majithia Wage Board at the time of resignation from the job and after seeing the same AW1 affirmed that no such document is present in the judicial file. AW1 further stated that he can produce the copy of the same on the next date of hearing. The remaining cross-examination of AW1 was deferred on request of Learned Representative for the management for producing the above said document by the witness. AW1 when recalled for cross-examination on 19.01.2023 stated that he has brought the photocopy of full & final receipt wherein there is hand written note by his father that full & final receipt does not includes arrears based Majithia Wage Board and copy of same is Mark 'M'. He does not have the original of the same. AW1 stated that except hand written note of his father on Mark 'M' there is no other document wherein his father has received full & final payment by reversing the right to claim the arrears as per the Majithia Wage Board recommendations. AW1 further stated that there is no document whereby his father received his salary under protest or by reserving his right to claim the arrears as per Majithia Wage Board recommendations. AW1 admitted as correct that the writing at point 'A' of Mark 'M' is that of his father wherein he has written *"this is towards three months salary, compensation and bonus payable to me"*. AW1 admitted as correct that his father has received the medical claim against the medical bills amounting to ₹ 1,43,201/- and Apat Nidi claim amounting to ₹ 62,136/-. AW1 admitted as correct that all the existing dues which were due towards his father at the time of his resignation were paid by the management to his father and his father received the same. Learned Representative for the management has argued that since K. Muralidharan, father of AW1 had received all his dues, therefore, he was not entitled to the benefits of Majithia Wage Board recommendations and further argued that the writing Mark 'M' is personal record of employee K. Muralidharan and has nothing to do with the full & final payment received by him at the time of resignation. To my opinion, it is not disputed by AW1, one of the LR's of workman that K. Muralidharan at the time of tendering resignation w.e.f. 01.03.2019 received the outstanding dues from the management which were calculated on the existing pay and emoluments. It is not the case of the management that at the time of resignation the workman was paid dues calculated as per the Majithia Wage Board recommendations. The Majithia Wage Board recommendation became applicable during the service period of the workman i.e. w.e.f. 11.11.2011 and the workman has resigned from the post w.e.f. 01.03.2019. The management has failed to prove that the workman has signed declaration dated 15.11.2011. In this regard, AW1 when put to cross-examination stated that declaration dated 15.11.2011 does not bear signature of his father as the signature of his father is in scrambled form. The original declaration dated 15.11.2011 was neither put to AW1 in his cross-examination nor produced at the time of recording testimony of MW1, who in his examination-in-chief along with his affidavit Exhibit 'MW1/A' has tendered copies of documents including copy of declaration dated 15.11.2011 vide Exhibit 'M8'. The management did not examine any hand writing expert to get compared the disputed signatures of workman K. Muralidharan appended on declaration Exhibit 'M8' with his standard signatures. Thus, it cannot be concluded that copy of declaration dated 15.11.2011 / Exhibit 'M8' bears the signatures of workman K. Muralidharan. Moreover, in view of the unreported ***judgment dated 22.04.2024 passed by the Hon'ble High Court of Madhya Pradesh at Jabalpur in Misc. Petition No. 5093 of 2022 between Dainik Bhaskar and the State of Madhya Pradesh & Others*** referred by Learned Representative for the workman only that declaration can be said to be a valid declaration under Clause 20(j) of the recommendations of Majithia Wage Board if it is in favour of the employee and not detrimental to his interest. In the present case, if for the sake of arguments it is assumed that the declaration dated 15.11.2011, Exhibit 'M8' was signed by the workman exercising his option to retain the existing pay scale and existing emoluments, in that situation also, the same being detrimental to the interest of the workman cannot be said to be valid declaration. The relevant para of the judgment is reproduced :-

*"15. Thus, the burden that the declaration was given voluntarily by the respondent is upon the petitioner. Although it is the stand of the Petitioner that a public notice was*

*affixed on the notice board that the employees has to submit a declaration in the light of clause 20(j) of Majithia Wage Board, but the Petitioner has miserably failed to prove that the employees were informed about the recommendations of the Majithia Wage Board and only after understanding the same, the respondent had voluntarily signed the declaration form. There is nothing on record that even the recommendations of the Majithia Wage Board were also affixed on the notice board, so that the respondents and others can go through the same. The petitioner being the employer was undoubtedly in a dominating position as it has every power to terminate the service or regulate the service conditions of the respondent.*

16. *Under these circumstances, this Court is of the considered opinion, that the Petitioner has miserably failed to discharge its burden to prove that the respondent had voluntarily executed the declaration under clause 20(j) of the Majithia Wage Board.*

.....

26. *Similarly, if an employer pays less than the Minimum Wages, then such an act of the employer would be punishable under Section 22 of the Minimum Wages Act. Thus, if the contention of the Petitioner, that if a declaration has been made by an employee under Clause 20(j) of Recommendations of Majithia Wage Board and agrees to work on a lesser pay than what was recommended by the Majithia Wage Board is accepted, then it would amount to permitting the employer to pay lesser wages than the Minimum Wages. Therefore, what is otherwise an offence and violative of Art. 23 of the Constitution of India, cannot be legalize under Clause 20(j) of recommendations Majithia Wage Board. Further any interpretation which leads to legalize an act which otherwise is an offence should always be avoided. Thus, only that declaration can be said to be a valid declaration under Clause 20(j) of recommendations of Majithia Wage Board if it is in favour of the employee and not detrimental to his interest. Therefore, the contention of the petitioner that the respondent had given a declaration thereby expressing his satisfaction over the pay scale which was given to him cannot be accepted, and it cannot be held that the respondent was estopped from claiming higher pay scale as recommended by Majithia Wage Board."*

21. Learned Representative for the workman referred another unreported **judgment dated 27.04.2023 of Hon'ble High Court of Uttra Pradesh at Lucknow passed in Writ-C No.10419 of 2023 titled as M/s Jagran Prakashan Limited Versus Sh. Amar Kumar Singh & 3 Others and Writ-C No. 23212 of 2021 titled as M/s Jagran Prakashan Limited Versus Krishan Lal & 4 Others**, wherein in para 31, 33 and 35, it has been held as below :-

- "31. *It is well settled that the Act, a piece of socio beneficial legislation enacted with a view to give reasonable working conditions to the employees of the newspaper establishment, needs to be interpreted in a manner, which leads to achieve the purpose for which the Act was enacted. The provisions of Clause 20(J) read with Section 13 and 16 have to be interpreted harmoniously to ensure that none of the provisions are rendered otiose.*

.....

33. *The argument of the counsel for the petitioner in the light of the provisions of Clause 20(J), if accepted, would render the entire Act inapplicable and if the said argument*



*is accepted, the same would be in clear violation of the mandate of Section 12, 13, 13-C, 13-D and Section 16 of the Act.*

.....

35. *It is further inconceivable as to why the employee would agitate for the wages and emoluments by instituting proceedings under Section 17 if he was getting more amounts than what was prescribed by the wage board, it is equally inconceivable as to why any newspaper establishment would contest such proceedings if they felt that the wages and emoluments paid to an employee under an agreement are more than the recommendations of the board."*

22. In view of the aforesaid judgments, the argument advanced by Learned Representative for the management that the workman did not receive the payment of gratuity Exhibit 'M1' and Exhibit 'M2' under protest, pales into insignificance. Moreover, AW1 in his cross-examination voluntarily stated that the payment of gratuity Exhibit 'M1' and Exhibit 'M2' were based on the current salary and not as per Majithia Wage Board recommendations.

23. In view of the discussed made above, the claimant-workman falls within the definition of 'workman' as defined under Section 2(s) of the IDAct and is entitled to recover arrears of difference of pay for the period from 11.11.2011 to 01.03.2019.

24. Accordingly, issue No.1 is decided in favour of the claimant-workman and against the management. Issue No.2 is decided against the management and in favour of the claimant-workman.

### **Issue No. 3 :**

25. Onus to prove this issue is on management. During course of arguments this issue is not pressed by management.

26. Accordingly, this issue is decided against management and in favour of the claimant-workman.

### **Issue No. 4 :**

27. Onus to prove this issue is on the management.

28. Learned Representative for the management argued that the present claim statement is not maintainable under Section 17 of the Act as no amount is due and the amount claimed is based on non-existing right. To my opinion, the argument advanced by Learned Representative for the management is devoid of merits in view of Section 8 of the Act, which reads as below :-

**"8. Fixation or revision of rates of wages.-{1}** *The Central Government may, in the matter hereinafter provided.-*

*(a) fix rates of wages in respect of working journalists;*

*(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section or specified in the order made under section 6 of the Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958).*

*(2) The rates of wages may be fixed or revised by the Central Government in respect of working journalists for time work and for piece work."*

29. In view of the aforesaid provision of the Act, the claimant-workman is entitled to the wages fixed under Majithia Wage Board recommendations. As far as the relief claimed under Section 17 of the Act is concerned, in the ***judgment dated 27.03.2023 of Hon'ble High Court of Uttra Pradesh at Lucknow passed in Writ-C No.10419 of 2023 and Writ-C No.23212 of 2021(supra)***, which is applicable to the facts of the present case to an extent, it has been held in para 30as below :-

*"30. The argument of the counsel for the petitioner is that once the respondents have accepted the wages, emoluments and benefits as were existing by giving an undertaking, they are precluded from raising a claim under Section 17 of the Act, merits rejection for the sole reason that the Clause 20(j) of the Wage Board has to be read in context with the explanation under Clause 20(j) read with Section 13 and 16 of the Act."*

30. Accordingly, this issue is decided against the management and in favour of the claimant-workman.

**Relief :**

31. In the view of foregoing finding on the issues above, this reference is allowed and answered in favour of the workman to the effect that the workman is held entitled to the wages for the period from 11.11.2011 to 01.03.2019 as per the Majithia Wage Board recommendations after deduction of wages drawn by him during the said period. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till its actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

Dated : 02.05.2024.

(Sd.) . . .,

(JAGDEEP KAUR VIRK)  
PRESIDING OFFICER,  
Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No. PB0152.

Secretary Labour,  
Chandigarh Administration.

**CHANGE OF NAME**

I, Neelu Devi, W/o Arvind Kumar, # 106, Sector 52, Kajheri, Chandigarh, have changed my name to Neetu.

[1115-1]

I, Tejinder Bhatti, S/o Harbakhsh Singh, R/o H. No. 1652, Sector 33-D, Chandigarh, have changed my name from Tejinder Bhatti to Tejinder Singh Bhatti.

[1116-1]

I, Keshwa Ram, S/o Late Mohan Lal, R/o 923, Dhanas, Chandigarh, have changed my name to Kesho Ram.

[1117-1]

I, Alpana, wife of Vikram Singh, R/o House No. 339, Village Daria, Chandigarh, do hereby declare that I have changed my name to Alpana Rawat. All concerned may note for all future purposes.

[1118-1]

I, Parveen Kumar, R/o 1110, Sector 52, Chandigarh, have changed my minor son's name Vdish @ Vadish to Vaidish Maurya.

[1119-1]

I, Karjina *alias* Firoja Begum *alias* Firoja Begam, W/o Mohd Sattar, # 1101, Small Flats HBC, Dhanas, Chandigarh, have changed my name to Firoja Bigum.

[1120-1]

मैं, अलका बाजोरिया, पत्नी जितेन्द्र खीरवाल, निवासी # 229, डडु माजरा, चंडीगढ़। मैंने अपना नाम बदलकर अलका खीरवाल रख लिया है।

[1121-1]

I, Gurparkash, S/o Sh. Gurmeet Singh, R/o H. No. 78, Milk Colony, Dhanas, Chandigarh, have changed my name from Gurparkash to Gurparkash Singh.

[1122-1]

I, Navjot Singh, S/o Karanbir Singh, R/o # 3001, Sector 38-D, Chandigarh, have changed my name to Navaab Singh Pathania.

[1123-1]

I, Meeran Kumari Rana, W/o Navaab Singh Pathania, R/o # 3001, Sector 38-D, Chandigarh, have changed my name to Meeran Singh Pathania.

[1124-1]

I, Rajender Kumar, S/o Ram Shankar Prajapati, R/o # 1962, Vikas Nagar, Mauli Jagran, Chandigarh, declare that I have changed my name from Rajender Kumar to Rajendra Kumar Prajapati.

[1125-1]

I, Anmol Rattan, S/o Sh. Dharam Paul Malhotra, R/o # 3364, Punjab Vidhan Sabha Society, Sector 49-D, Chandigarh, have changed my name from Anmol Rattan to Anmol Rattan Malhotra. Concerned note.

[1126-1]

I, Anju, D/o Bachu Lal, R/o # 1942/B, Small Flats, Dhanas, Chandigarh, declare that I have changed my name from Anju to Anju Bhardwaj.

[1127-1]

*"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."*